

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
SOUTHEASTERN DIVISION

Mario Fontonez Stevenson,)
vs.)
Petitioner,) **ORDER ADOPTING**
) **REPORT AND RECOMMENDATION**
State of North Dakota,)
)
)
) Case No. 3:07-cv-8
Respondent.)

Petitioner, Mario Fontonez Stevenson, filed a petition for a writ of habeas corpus under 28 U.S.C. § 2254 (Doc. #1).

On February 9, 2007, Magistrate Judge Karen K. Klein issued her Report and Recommendation, recommending the petition be dismissed with prejudice because it is time-barred. (Doc. #3). Petitioner filed an objection (Doc. #5).

The objection filed by Petitioner is difficult to interpret. Petitioner appears to request that the Court equitably toll the statute of limitations on his claim. The grounds he offers for such action include ineffective assistance of counsel, his status on probation until 2005, and the rejection of his post-conviction relief action in state court. None of these arguments have persuaded the Court that a “timely petition [was] impossible.” Cross-Bey v. Gammon, 322 F.3d 1012, 1015 (8th Cir. 2003).

Therefore, upon review of the Report and Recommendation, along with the entire file, the Court finds that the Magistrate Judge’s position — that the petition is time-barred — is correct. Accordingly, the Court hereby adopts the Report and Recommendation in its entirety. For the

reasons set forth therein, Stevenson's petition is **DISMISSED** with prejudice.

IT IS SO ORDERED.

Dated this 9th day of April, 2007.

/s/ Ralph R. Erickson
Ralph R. Erickson, District Judge
United States District Court